

Proposed

**State of Kansas
Department of Health and Environment**

Notice of Hearing on Proposed Administrative Regulations

The Kansas Department of Health and Environment, Division of Health, Bureau of Child Care and Health Facilities, will conduct a public hearing at 1 p.m. Tuesday, May 17, in the Memorial Hall Auditorium, 120 S.W. 10th, Topeka, to consider the revocation of family day care home regulations K.A.R. 28-4-120 and 28-4-121; adoption of new regulation K.A.R. 28-4-93, pertaining to the department's online information dissemination system; amendments to regulations K.A.R. 28-4-113, 28-4-114, 28-4-115, and 28-4-116, and adoption of new regulations K.A.R. 28-4-114a, 28-4-115a, and 28-4-116a, pertaining to day care and group day care homes; and amendments to regulation K.A.R. 28-4-440 and adoption of new regulation K.A.R. 28-4-428a, pertaining to preschools and child care centers. The proposed regulations incorporate the provisions Lexie's Law.

A summary of the proposed regulations and the estimated economic impact follows:

Summary of Regulations:

K.A.R. 28-4-93. Online information dissemination system. Provides definitions of terms used throughout the regulation; requires applicant or licensee to notify the department if requesting that facility address and telephone number be withheld from publication.

K.A.R. 28-4-113. Definitions. Provides definitions of terms used throughout the day care and group day care home regulations.

K.A.R. 28-4-114. Applicant; licensee. Describes application process for license and applicant and licensee requirements; addresses operation of more than one facility and prohibits licensure concurrently for more than one type of child care or child and adult care on same premises; lists license capacity, counting a child not functioning at developmental level, capacity not to be



exceeded, provision for emergency care, and additional children on premises; requires appointment of substitute for primary care provider; requires posting of temporary permit or license and availability of current regulations; addresses closure.

K.A.R. 28-4-114a. Initial and ongoing professional development. Requires orientation for applicant and anyone caring for children; describes health and safety training; requires first aid and CPR, lists initial and annual professional development requirements, requires documentation.

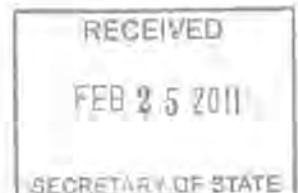
K.A.R. 28-4-115. Facility. Describes water and sewerage systems requirements and drinking water for infants; addresses general environmental requirements, fire safety approval, fire inspector approval for use of basement or second floor, and prohibits use of third floor; requires refrigerator and storage of refrigerated medications in locked box; addresses storage of hazardous items and storage of guns and other weapons; requires designated outdoor play area.

K.A.R. 28-4-115a. Supervision. Requires and describes contents of a supervision plan; describes requirements for general supervision of children, indoor and outdoor supervision, and evening and overnight care.

K.A.R. 28-4-116. Daily care of children. Requires communication with parents; addresses requirements for daily schedule of activities; assisting child with personal care, hand washing; prohibits smoking; lists requirements for nutrition and food service; requires recordkeeping.

K.A.R. 28-4-116a. Napping and sleeping. Requires rest period for each child; describes elements of safe sleep practices, lists requirements for sleeping surfaces and consumer warnings or recalls; addresses transition from crib or playpen to other surface.

K.A.R. 28-4-120. Family day care home certificate of registration. Revoked effective July 1, 2011.



K.A.R. 28-4-121. Required immunizations for children under 16 years of age. Revoked effective July 1, 2011.

K.A.R. 28-4-428a. Education and training requirements. Requires orientation for applicant and staff; describes health and safety training, requires first aid and CPR; lists education and annual in-service training requirements; requires documentation.

K.A.R. 28-4-440. Infant and toddler programs. States program requirements, including use of ground floor only, separate units from those for older children; prohibits floor furnaces; for infants, requires separate sleeping area and crib or playpen for each infant; lists requirements for cribs and playpens and consumer warnings or recalls; lists elements of safe sleep policies and practices; requires attendance to children when awake; requires adult-size rocking chair for each unit and chairs, tables, etc., for children not held for feeding; requires provision of towels and washcloths or disposable products; addresses cleaning of items that children may place in their mouths; lists staff requirements; addresses program requirements; lists food service requirements; lists requirements for toileting; requires daily communication with parents and guardians.

Economic Impact:

Cost to the agency: There is no additional cost to the agency. Any costs will be absorbed in the current budget.

Cost to licensees: There is no cost for licensees pertaining to the online information dissemination system (K.A.R. 28-4-93).

For the professional development and training requirements (K.A.R. 28-4-114a and K.A.R. 28-4-428a) a number of current licensees and care providers, as part of their own professional development, already meet these requirements. For those who do not meet the requirements, there are low-cost training opportunities through resource and referral agencies, county health



departments, and other community partners. The proposed new regulations allow current licensees and staff up to one calendar year to complete the requirements.

K.A.R. 28-4-116a and K.A.R. 28-4-440 prohibit the use of drop-side cribs in child care facilities after December 28, 2012. This prohibition is due to a recent change in federal standards for the manufacture and sale of cribs, which include a requirement that child care facilities phase out the use of drop-side cribs by that date. The purpose of the delayed compliance date is to provide adequate time for the manufacture of complying cribs and for facilities to obtain complying cribs. In Kansas, licensed day care homes, group day care homes, and child care centers with infants enrolled may use either cribs or playpens for napping or sleeping infants. It is unknown how many facilities currently have cribs that must be replaced by December 28, 2012. For those facilities replacing non-compliant cribs, the estimated cost per crib is \$200-\$500. Child care facilities will continue to have the option to use the less expensive playpens.

Costs to other governmental agencies or units: There is no known additional cost.

The time period between publication of this notice and the scheduled hearing serves as the required public comment period of at least 60 days for the purpose of receiving written public comments on the proposed amended regulations. At any time during the public comment period any interested parties may submit written comments to Dorothy Tenney, KDHE, Child Care Licensing and Registration Program, 1000 S.W. Jackson, Suite 200, Topeka, 66612-1274, by fax at 785-296-0803, or by e-mail to dtenney@kdheks.gov. During the hearing, all interested parties will be given a reasonable opportunity to present their views orally on the proposed new regulations as well as an opportunity to submit their written comments. In order to give each



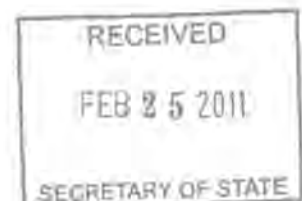
individual an opportunity to present their views, it may be necessary for the hearing officer to request that each presenter limit any oral presentation to an appropriate time frame.

Complete copies of the proposed regulations and the corresponding economic impact statements may be obtained on the Child Care Licensing Web site at www.kdheks.gov/kidsnet/ or by contacting Dorothy Tenney, at the address above, (785) 296-1270, or fax (785) 296-0803.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statements in an accessible format. Requests for accommodation should be made at least five working days in advance of the hearing by contacting Dorothy Tenney.

Robert Moser, M.D.

Secretary of Health and Environment



K.A.R. 28-4-93. Online information dissemination system. This regulation shall apply to the department's online information dissemination system for child care facilities, as defined in K.S.A. 65-503 and amendments thereto. (a) Definitions. The following terms shall have the meanings specified in this regulation:

(1) "Applicant" means a person who has applied for a license to operate a child care facility but who has not yet been granted the license.

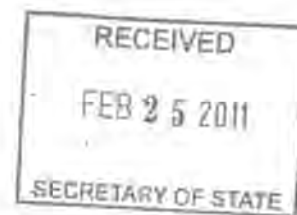
(2) "Applicant with a temporary permit" means a person who has been granted a temporary permit to operate a child care facility.

(3) "Department" means Kansas department of health and environment.

(4) "Licensee" means a person who has been granted a license to operate a child care facility.

(5) "Online information dissemination system" means the electronic database of the department that is accessible to the public.

(b) Identifying information. Each applicant, applicant with a temporary permit, or licensee shall notify the department if the applicant, applicant with a temporary permit, or licensee does not wish the department to include the address and the telephone number of the child care facility on the online information dissemination system. Each request shall be submitted on a form provided by the department. (Authorized by and implementing K.S.A. 2010 Supp. 65-534; effective P-_____.)



ATTORNEY GENERAL

DEPT. OF ADMINISTRATION

FEB 16 2011

FEB 15 2011

APPROVE

A handwritten signature in black ink, appearing to be a stylized 'M' or similar character.

APPROVED

K.A.R. 28-4-113. Definitions. (a) "Applicant" means a person who has applied for a license but who has not yet been granted a license to operate a facility.

(b) "Applicant with a temporary permit" means a person who has been granted a temporary permit to operate a facility.

(c) "Care provider" or "provider" means a person, association, corporation or other organization who has control or custody of one or more children under 16 years of age who are unattended by a parent or guardian for the purpose of providing those children with care for less than 24 hours a day, except children related to the person by blood, marriage or legal adoption mean an individual who cares for and supervises children in a facility and has responsibility for the health, safety, and well-being of children, including the following:

(1) A primary care provider;

(2) an individual who is at least 16 years of age and who is employed in the facility; and

(3) a substitute.

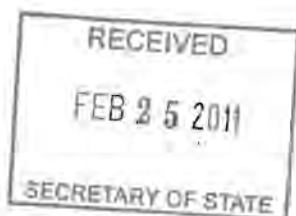
(d) "Day care home" means the premises in on which care is provided for a maximum of 10 children under 16 years of age, with a limited number of children under kindergarten five years of age in accordance with K.A.R. 28-4-114 (e)(1) (e).

(e) "Department" means the Kansas department of health and environment.

(f) "Emergency care" means care for a period not to exceed two weeks for children not regularly enrolled in the a facility.

(g) "Evening care" means care for children staying with the provider at a facility after 6:00 p.m. and leaving before 1:00 a.m. the following day.

(h) "Extended absence" means time away from a facility for a period of more than 10



ATTORNEY GENERAL

FEB 16 2011

APPROVED BY

A handwritten signature in black ink, appearing to be "CW".

DEPT. OF ADMINISTRATION

FEB 15 2011

APPROVED

~~hours per week away from the day care home or group day care home during hours of operation~~
three hours in a day.

(i) "Facility" means a day care home or a group day care home.

~~(g)~~ (j) "Fire inspector" means a person approved by the state fire marshal to conduct fire safety inspections.

~~(h)~~ (k) "Group day care home" means the premises ~~in~~ on which care is provided for a maximum of 12 children under 16 years of age, with a limited number of children under ~~kindergarten~~ five years of age in accordance with K.A.R. 28-4-114 ~~(f)(1)~~ (f).

~~(i)~~ "Kindergarten age child" means ~~a child who is five years of age on or after June 1 of the year the child is eligible to enter kindergarten pursuant to K.S.A. 72-1107 and any amendments thereto.~~

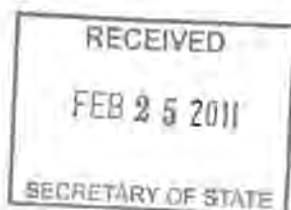
~~(j)~~ (l) "License capacity" means the maximum number of children who are authorized to be on the premises at any one time.

~~(k)~~ (m) "Licensed physician" means a person who is licensed to practice either medicine or surgery or osteopathy in Kansas as set forth in pursuant to K.S.A. 1988 Supp. 65-2869 and K.S.A. 65-2870, and any amendments thereto, or who practices either medicine and surgery or osteopathy in another state and is licensed under the corresponding statutes of that state.

(n) "Licensee" means a person who has been granted a license to operate a facility.

~~(l)~~ (o) "Overnight care" means care for children ~~staying with the care provider at a~~ facility after 1:00 a.m.

~~(m)~~ (p) "Primary care provider" means an applicant with a temporary permit, a licensee,



ATTORNEY GENERAL

FEB 16 2011

APPROVED BY

DEPT. OF ADMINISTRATION

FEB 15 2011

APPROVED

A handwritten signature in black ink, appearing to be a stylized name.

Proposed

~~or his or her the~~ designee who is 18 years of age or older and has the ongoing responsibility for the health, safety, and well-being of children in care of an applicant with a temporary permit or a licensee. Each applicant with a temporary permit, each licensee, and each designee shall be at least 18 years of age and shall meet the requirements for a primary care provider specified in K.A.R. 28-4-114a.

(q) "Professional development training" means training approved by the secretary that is related to working with children in care.

~~(n) (r)~~ "Substitute care provider" means a person an individual who supervises children in the day care home or group day care home in the temporary absence or extended absence of the primary care provider, according to the following requirements:

(1) In the temporary absence of the primary care provider, the substitute shall be at least 16 years of age and shall meet all of the requirements for a provider specified in K.A.R. 28-4-114a.

(2) In the extended absence of the primary care provider, the substitute shall be at least 18 years of age and shall meet all of the requirements for a primary care provider specified in K.A.R. 28-4-114a.

~~(e) (s)~~ "Temporary absence" means time away from the day care home or group day care home and from the children in care a facility for a period not to exceed 10 hours per week three hours in a day.

(t) "Use zone" means the surface under and around a piece of equipment onto which a child falling from or exiting the equipment would be expected to land. (Authorized by K.S.A.

RECEIVED
FEB 25 2011
SECRETARY OF STATE

ATTORNEY GENERAL

FEB 16 2011

APPROVED BY *[Signature]*

DEPT. OF ADMINISTRATION

FEB 15 2011

APPROVED

K.A.R. 28-4-113, page 4

2010 Supp. 65-508; implementing ~~K.S.A. 65-501~~, K.S.A. 2010 Supp. 65-503, and K.S.A. 2010 Supp. 65-508; effective, E-80-18, Oct. 17, 1979; effective May 1, 1980; amended May 1, 1981; amended May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended Feb. 26, 1990; amended P-_____.)

RECEIVED
FEB 25 2011
SECRETARY OF STATE

ATTORNEY GENERAL

FEB 16 2011

APPROVED BY



DEPT. OF ADMINISTRATION

FEB 15 2011

APPROVED

Proposed

28-4-114. The Applicant and licensee. (a) Application process.

(1) Any person desiring to ~~conduct~~ operate a ~~day care home or group day care home facility~~ shall apply for a license on forms provided by the Kansas department of health and environment.

(2) Each applicant and each licensee shall submit the fee specified in K.A.R. 28-4-92 for a license or for the renewal of a license. The applicable fee shall be submitted at the time of license application ~~and reapplication,~~ or renewal and shall not be refundable.

(3) The granting of a license to any applicant with a temporary permit may be refused by the secretary if the applicant is not in compliance with the applicable requirements of the following:

(A) K.S.A. 65-504 through 65-506, and amendments thereto;

(B) K.S.A. 65-508, and amendments thereto;

(C) K.S.A. 65-512, and amendments thereto;

(D) K.S.A. 65-530 and 65-531, and amendments thereto; and

(E) all regulations governing facilities.

(4) Failure to submit the application forms and fee for renewal of a license shall result in an assessment of a late fee pursuant to K.S.A. 65-505, and amendments thereto, and may result in closure of the facility.

(b) Applicant and licensee requirements. Each applicant, if an individual, and each licensee or primary care provider, if an individual, shall meet the following requirements:

(1) ~~Shall~~ Be at least 18 years of age;

(2) ~~shall~~ not be involved in child care or a combination of child care and other



ATTORNEY GENERAL

FEB 16 2011

APPROVED BY

A handwritten signature in black ink, appearing to be "W".

DEPT. OF ADMINISTRATION

FEB 15 2011

APPROVED

employment for more than 18 hours in a 24-hour period; and

(3) shall not be engaged in either business or social activities which that interfere with the proper care or supervision of children.

(c) Multiple child care facilities.

(1) Each applicant with a temporary permit and each licensee who operates more than one child care facility, as defined in K.S.A. 65-503 and amendments thereto, shall maintain each child care facility as a separate entity.

(2) A license for an additional child care facility shall not be granted until all existing child care facilities for which the licensee has been granted a license are in compliance with licensing regulations.

(d) Multiple licenses. ~~Each~~ No licensee shall ~~not~~ be licensed concurrently for or provide more than one type of child care or child and adult care ~~in~~ on the same premises.

(e) ~~(1)~~ License capacity for day care homes. Each applicant with a temporary permit and each licensee shall ensure that the requirements of this subsection are met. The maximum number of children for which a day care home may be licensed shall be ~~as follows~~ the following:

TABLE I – LICENSE CAPACITY, ONE PROVIDER

Maximum Number of Children Under 18 Months	Maximum Number of Children <u>at Least</u> 18 Months to Kindergarten <u>but Under 5 Years of Age</u>	<u>Maximum Number</u> of Children <u>Kindergarten</u> Age to at Least 5 Years <u>but Under 11 Years of Age*</u>	License Capacity
0	7	3	10
1	5	4	10

RECEIVED
FEB 25 2011
SECRETARY OF STATE

ATTORNEY GENERAL

FEB 16 2011

APPROVED BY



DEPT. OF ADMINISTRATION

JAN 31 2011

APPROVED

2	4	3	9
3	3	2	8

*Children ~~kindergarten~~ five years of age and over may be substituted for younger children in the license capacity.

~~(2) Children 11 years of age to 16 years of age, unrelated to the provider, shall be included in the license capacity if child care for this age group as a whole exceeds three hours a week.~~

~~(3) Children under 11 years of age who are related to the provider shall be included in the maximum number of children in each age group.~~

(f) (1) Maximum capacity for group day care homes. Each applicant with a temporary permit and each licensee shall ensure that all of the requirements of this subsection are met.

The maximum number of children for which a group day care home may be licensed shall be as follows the following:

TABLE II – LICENSE CAPACITY, ONE ~~ADULT~~ PROVIDER

Age of Children Enrolled	License Capacity
<u>At Least 2 1/2 Years to but Under 11 Years of Age</u>	9
<u>At Least 3 Years to but Under 11 Years of Age</u>	10
Kindergarten Age to <u>At Least 5 Years but Under 11 Years of Age</u>	12



DEPT. OF ADMINISTRATION

ATTORNEY GENERAL JAN 31 2011

FEB 16 2011 APPROVED

APPROVED BY *[Signature]*

TABLE III – LICENSE CAPACITY, TWO ADULTS PROVIDERS*

Maximum Number of Children Under 18 Months	Maximum Number of Children <u>at Least 18 Months to Kindergarten but Under 5 Years of Age</u>	Kindergarten Age Child** to Age 11 <u>Maximum Number of Children at Least 5 Years but Under 11 Years of Age**</u>	License Capacity*
1	8	3	12
2	7	3	12
3	6	3	12
4	4	2	10
		<u>Maximum # of Children</u> <u>18 Mos. To 2 1/2 Years</u>	
0		5	12

*A second person 16 years of age or older provider shall be present when the number of children exceeds the maximum number allowed for one ~~adult~~ provider. (See Table I.)

**Children ~~kindergarten~~ five years of age and over may be substituted for younger children in the license capacity.

~~(2) Children 11 years of age to 16 years of age unrelated to the provider shall be included in the license capacity if child care for this age group as a whole exceeds three hours a week.~~

~~(3) Children under 11 years of age who are related to the provider shall be included in the maximum number of children in each age group in a group day care home.~~

RECEIVED
FEB 25 2011
SECRETARY OF STATE

ATTORNEY GENERAL DEPT. OF ADMINISTRATION
FEB 16 2011
APPROVED BY *[Signature]*
JAN 31 2011
APPROVED

TABLE IV – LICENSE CAPACITY, TWO PROVIDERS*

<u>Maximum Number of Children Under 18 Months</u>	<u>Maximum Number of Children at Least 18 Months but Under 2 1/2 Years of Age</u>	<u>Maximum Number of Children at Least 2 1/2 Years but Under 11 Years of Age**</u>	<u>License Capacity*</u>
<u>0</u>	<u>5</u>	<u>7</u>	<u>12</u>

*A second provider shall be present when the number of children exceeds the maximum number allowed for one provider. See Table I.

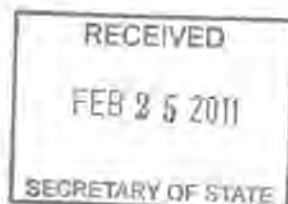
**Children five years of age and over may be substituted for younger children in the license capacity.

(g) Developmental levels. ~~Children~~ Any child who ~~de~~ does not function according to age-appropriate expectations shall be counted in the age group which that reflects ~~their~~ the developmental age level of the child.

(h) License capacity not exceeded. Each applicant with a temporary permit and each licensee shall ensure that the total number of children on the premises, including children under 11 years of age related to the applicant with a temporary permit, the licensee, or any other provider, shall does not exceed the license capacity.

(i) Emergency care. Emergency care for a period not to exceed two weeks, or drop-in care may be provided for children not regularly enrolled in the day care home or group day care home if the additional children do not cause that home to exceed its the license capacity to be exceeded.

(j) An exception for overlap enrollment may be granted by the department upon request



ATTORNEY GENERAL

DEPT. OF ADMINISTRATION

FEB 16 2011

JAN 31 2011

APPROVED BY

APPROVED

by the licensee, as follows:

~~(1) Not more than two school-age children for not more than one hour before and after school or over the noon hour. An additional adult shall not be required. Each exception for this overlap enrollment shall be in effect only during the school year.~~

~~(2) To accommodate shift change. An additional adult and fire safety approval may be required.~~

~~(k) Each primary care provider in a day care home shall, within 60 days following initial application for a license or employment, submit documentation that one of the following training requirements has been met:~~

~~(1) Five sessions of observations, not less than 2 1/2 consecutive hours per observation, in a licensed day care home, group day care home or a child care center which has been in continuous operation for three or more years. Observations shall be planned so that all daily activities (morning, lunch, nap, late afternoon) can be observed;~~

~~(2) a child development associate credential;~~

~~(3) fifteen hours of directed readings, videotapes or attendance at workshops or membership meetings on child care topics; or~~

~~(4) employment for not less than three months in a licensed day care home, group day care home or child care center which had been in continuous operation for three or more years.~~

~~(l) Each primary care provider in a group day care home shall, within 60 days following initial application for a license or employment, submit documentation that one of the following training requirements has been met:~~

RECEIVED
FEB 25 2011
SECRETARY OF STATE

DEPT. OF ADMINISTRATION
ATTORNEY GENERAL
FEB 16 2011
APPROVED BY *[Signature]*
JAN 27 2011
APPROVED

~~(1) six months' supervised employment in licensed facilities with children of the same age as enrolled in the group day care home;~~

~~(2) five sessions of observations for not less than 2 1/2 consecutive hours per session in a licensed group day care home or child care center which has been in continuous operation for three or more years, and 10 hours of directed readings, video tapes or attendance at workshops or membership meetings on child care topics;~~

~~(3) a minimum of three semester hours of academic credit or equivalent training in child development, early childhood education, and curriculum resources, and supervised observation in high school or college or three months' work experience with children of the same age as enrolled in the group day care home;~~

~~(4) a child development associate credential; or~~

~~(5) the requirements for a program director of a child care center as specified in K.A.R. 28-4-429.~~

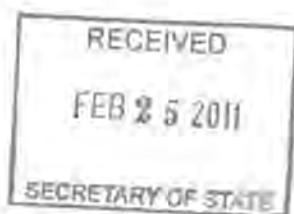
~~(m) Prior to relicensure, each primary care provider in a day care home or group day care home shall provide documentation of:~~

~~(1) five clock hours of in-service training which may include child care association membership meetings and annual conferences, extension homemaker programs, or other programs on child care;~~

~~(2) five hours of directed reading or video tapes on child care topics; or~~

~~(3) current accreditation by the National Association for Family Day Care.~~

~~(j) Additional children on the premises. In addition to the number of children permitted~~



ATTORNEY GENERAL

FEB 16 2011

APPROVED BY *M*

DEPT. OF ADMINISTRATION

JAN 27 2011

APPROVED

under the terms of the temporary permit or the license and specified in subsections (e) and (f), other children may be permitted on the premises.

(1) Not more than two additional children three years of age or older who attend part-day preschool or part-day kindergarten may be present for one hour over the noon hour on days that school is in session. A second provider shall be in attendance when three children under 18 months of age are in care during the time the additional children are present.

(2) Not more than two additional children five to 11 years of age may be present between the hours of 6:00 a.m. and 6:00 p.m. A second provider shall be in attendance when three children under 18 months of age are in care during the time the additional children are present.

The additional children may be present as follows:

(A) During the academic school year before and after school, in-service days, school holidays, scheduled or emergency closures, and school breaks not to exceed two consecutive weeks; and

(B) during the two consecutive weeks before the opening of the academic school year in August or September and following the end of the academic school year in May or June.

(3) Not more than two additional children 11 years of age or older, unrelated to the applicant with a temporary permit or the licensee, may be present for not more than two hours a day during child care hours if all of the following conditions are met:

(A) The additional children are not on the premises for the purpose of receiving child care in the facility.



ATTORNEY GENERAL DEPT. OF ADMINISTRATION
FEB 16 2011 JAN 31 2011
APPROVED BY *[Signature]* APPROVED

(B) The additional children are visiting the applicant's or the licensee's own child or children.

(C) The additional children are supervised by a provider if they have access to the children in care.

(4) The parent or legal guardian of each child in care shall be informed in advance if additional children will be present.

~~(n) (k) Substitute. (l) Each applicant or with a temporary permit and each licensee shall arrange for a substitute care provider 16 years of age or older to care for children in the event of a temporary absence or extended absence of the primary care provider. In the event of an extended absence, the substitute provider shall be 18 years of age or older.~~

~~(2) Each substitute providing care for an extended absence shall meet K.A.R. 28-4-114 (k).~~

(o) (l) Posting of temporary permit or license and availability of regulations. Each applicant with a temporary permit and each licensee shall post any temporary permit or license shall be posted conspicuously as required by K.S.A. 1988 Supp. 65-504, and amendments thereto. A copy of the "regulations for licensing day care homes and group day care homes for children" shall be kept on the premises at all times. A copy of the current regulations governing facilities shall be kept on the premises and shall be available to all providers at all times.

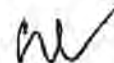
(p) (m) Closure. Each care provider shall notify the county health department or the department when day care or group day care service is to be discontinued. Any applicant may withdraw the application for a license. Any applicant with a temporary permit and any licensee

RECEIVED
FEB 25 2011
SECRETARY OF STATE

ATTORNEY GENERAL

FEB 16 2011

APPROVED BY



DEPT. OF ADMINISTRATION

JAN 31 2011

APPROVED

may submit, at any time, a request to close the facility. If an application is withdrawn or a facility is closed, any temporary permit or license granted to the applicant or licensee for that facility shall become void.

~~(q) Each applicant or licensee receiving notice of denial or revocation of license or a notice of intent to assess a civil fine shall be notified of the right to an administrative hearing by the department and subsequently shall be notified of the right to appeal the denial or revocation to the district court. A licensee may continue to provide child care pending a final decision by the department regarding denial or revocation of a license or assessment of a civil fine unless other action is initiated by the department. (Authorized by K.S.A. 2010 Supp. 65-508; implementing K.S.A. 65-501, K.S.A. 65-503, K.S.A. 1988 2010 Supp. 65-504, K.S.A. 2010 Supp. 65-505; and K.S.A. 2010 Supp. 65-508; effective, E-80-18, Oct. 17, 1979; effective May 1, 1980; amended May 1, 1981; amended May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended Feb. 26, 1990; amended P-_____.)~~

ATTORNEY GENERAL
RECEIVED
FEB 25 2011
SECRETARY OF STATE

FEB 16 2011
APPROVED BY *[Signature]*

DEPT. OF ADMINISTRATION
FEB 15 2011
APPROVED

28-4-114a. Initial and ongoing professional development. (a) Orientation.

(1) Each person shall, before applying for a license, complete an orientation program on the requirements for operating a facility, provided by the health department or the secretary's designee that serves the county in which the facility will be located.

(2) Each applicant and each licensee shall provide orientation to each individual who will be caring for children about the policies and practices of the facility, including duties and responsibilities for the care and supervision of children. Each provider shall complete the orientation before the provider is given sole responsibility for the care and supervision of children. The orientation shall include the following:

(A) Licensing regulations;

(B) the policies and practices of the facility, including emergency procedures, behavior management, and discipline;

(C) the schedule of daily activities;

(D) care and supervision of children in care;

(E) health and safety practices; and

(F) confidentiality.

(b) Health and safety training. Each applicant and each provider shall complete health and safety training approved by the department.

(1) Each applicant shall complete the training not later than 30 calendar days after submitting an application for a license.

(2) Each provider shall complete the training before the date of employment or not later than 30 calendar days after the date of employment.



ATTORNEY GENERAL

FEB 16 2011

APPROVED BY

A handwritten signature in black ink, appearing to be "RW".

DEPT. OF ADMINISTRATION

JAN 31 2011

APPROVED

(3) Each licensee whose license was issued before the effective date of this regulation shall complete the training within one calendar year after the effective date of this regulation. Each provider who was employed in the facility before the effective date of this regulation shall complete the training within one calendar year after the effective date of this regulation.

(4) The health and safety training shall include the following:

(A) At least two clock-hours of training in recognizing the signs of child abuse or neglect, including shaken baby syndrome, and the reporting of suspected child abuse and neglect;

(B) at least two clock-hours of training in basic child development; and

(C) at least two clock-hours of training on safe sleep practices and sudden infant death syndrome if the individual will be caring for children under 12 months of age.

(c) Pediatric first aid and pediatric cardiopulmonary resuscitation (CPR) certifications.

Each applicant and each provider shall obtain certification in pediatric first aid and pediatric CPR as specified in this subsection.

(1) Each applicant shall obtain the certifications not later than 30 calendar days after submitting an application for a license.

(2) Each provider shall obtain the certifications before the date of employment or not later than 30 calendar days after the date of employment.

(3) Each licensee whose license was issued before the effective date of this regulation shall obtain the certifications within one calendar year after the effective date of this regulation. Each provider who was employed in the facility before the effective date of this regulation shall obtain the certifications within one calendar year after the effective date of this regulation.



ATTORNEY GENERAL

FEB 16 2011

APPROVED BY

DEPT. OF ADMINISTRATION

JAN 31 2011

APPROVED

(4) Each individual required to obtain the certifications shall maintain current certifications.

(d) Initial professional development requirements. In addition to the professional development requirements in subsections (a), (b), and (c), each applicant and each primary care provider shall, not later than 30 calendar days following initial application for a license or employment, meet one of the following requirements:

(1) Have a child development associate credential;

(2) complete at least 15 hours of professional development training, which may include the training required in subsections (a), (b), or (c);

(3) have at least three months of previous employment in a facility or in a child care center, as defined in K.A.R. 28-4-420, that has been in continuous operation for three or more years; or

(4) meet the requirements for a program director of a child care center as specified in K.A.R. 28-4-429.

(e) Annual professional development training requirements. In each licensure year, each primary care provider shall meet one of the following requirements:

(1) Complete five clock-hours of professional development training;

(2) maintain current accreditation by the national association for family child care; or

(3) hold a current child development associate credential.



ATTORNEY GENERAL

FEB 16 2011

APPROVED BY

A handwritten signature in black ink.

DEPT. OF ADMINISTRATION

JAN 31 2011

APPROVED

(f) Documentation. Documentation of all orientation, training, and certifications for each individual shall be kept in that individual's file in the facility. (Authorized by and implementing K.S.A. 2010 Supp. 65-508; effective P-_____.)

RECEIVED
FEB 25 2011
SECRETARY OF STATE

ATTORNEY GENERAL

FEB 16 2011

APPROVED BY



DEPT. OF ADMINISTRATION

JAN 27 2011

APPROVED

~~28-4-115. The home Facility.~~ (a) Water supply and sewerage systems. ~~If a public water supply or a public sewerage system is not available, each care provider's home shall have a safe water supply and a sewage disposal system which complies with the requirements of K.A.R. 28-4-50 and K.A.R. 28-4-55 and amendments thereto.~~ Each applicant with a temporary permit and each licensee shall ensure that public water and sewerage systems, where available, are used. If a nonpublic source for the water supply is used, the water shall be safe for drinking and shall be tested annually by a department-certified laboratory. If a well is used, the well shall be approved by an agent of the local environmental protection program. A copy of the test results and the approval shall be kept on file at the facility. Each private sewerage system shall be maintained in compliance with all applicable state and local laws.

(b) Drinking water for children under 12 months of age. If children under 12 months of age are enrolled in a facility using water from a non-public source, including private well water, commercially bottled drinking water shall be purchased and used until a laboratory test confirms that the nitrate content of the private well water is not more than 10 milligrams per liter (10 mg/l) as nitrogen.

(c) General environmental requirements. ~~Each day-care home and group day-care home facility shall have 25 square feet of available play space per child, and shall be so constructed, arranged, and maintained as to provide adequately for the health and safety of children in care. The home shall~~ Each applicant with a temporary permit and each licensee shall ensure that the facility meets the following requirements:

- (1) ~~Have~~ Has walls ~~which~~ that are in good condition;
- (2) ~~be~~ is skirted and anchored if a mobile home;
- (3) ~~have~~ has a 2A 10B:C fire extinguisher;

RECEIVED
 FEB 25 2011
 SECRETARY OF STATE

DEPT. OF ADMINISTRATION
 ATTORNEY GENERAL
 FEB 16 2011
 APPROVED BY *WV*

JAN 31 2011
 APPROVED

(4) ~~have~~ has a smoke ~~alarm~~ detector on each level of the ~~home~~ facility;

(5) ~~be reasonably clean and is uncluttered and is free from accumulation of visible dirt,~~
any evidence of vermin infestation, and any objects or materials that constitute a danger to
children in care;

(6) ~~have~~ has kitchen and outdoor trash and garbage in covered containers or in tied plastic
bags;

(7) ~~have each open faced gas stove or gas space heater vented and each heating element~~
guarded meets all of the following requirements for each heating appliance:

(A) Has a protective barrier for each freestanding heating appliance to protect from
burns; and

(B) has each heating appliance using combustible fuel vented to the outside;

(8) ~~have~~ has each electrical outlet covered or inaccessible to prevent easy access by a
child when the outlet is not in use;

(9) has any power strip or extension cord positioned in a manner that prevents a tripping
or shock hazard;

(10) ~~have~~ has each stairway with more than two ~~steps~~ stairs railed;

(11) ~~(10)~~ (11) if any children under 2 1/2 years of age are in care, meets all of the following
requirements:

(A) ~~Have~~ Has each stairway guarded and ~~have~~ has balusters not more than four inches
apart or guarded to prevent a child's head or body from falling through ~~if children under two-~~
~~and a half are in care;~~



ATTORNEY GENERAL

DEPT. OF ADMINISTRATION

FEB 16 2011

JAN 27 2011

APPROVED BY

A handwritten signature in black ink, appearing to be "CW".

APPROVED

(B) has each stairway gated to prevent unsupervised access by the child, including a latching device that an adult can open readily in an emergency;

(C) does not have any accordion gate in use; and

(D) does not have a pressure gate at the top of any stairway;

(11) (12) have ~~has~~ a readily available second means of escape from the first floor;

(12) (13) have ~~has~~ each bathroom interior door ~~able~~ that can be locked designed to permit the door to be unlocked from both sides either side in case of an emergency; and

(13) (14) be is maintained at a temperature of not less than 65° F, 65 degrees Fahrenheit and not more than 90° F, 85 degrees Fahrenheit in the play area;

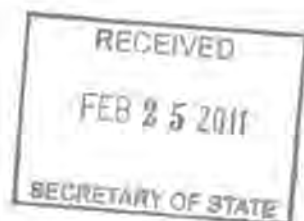
(15) does not have any window coverings with strings or cords accessible to children in care; and

(16) has at least one bathroom with at least one sink and one flush toilet. All fixtures shall be in working order at all times. An individual towel and washcloth or disposable products shall be provided for each child. Hand soap shall be readily accessible in each bathroom.

(e) (d) Fire safety. Each ~~group day care home~~ facility shall be approved annually for fire safety by a fire inspector.

(d) (e) Basements and other floors. A basement or a second floor used for child care in a ~~day care home or a group day care home~~ facility shall be approved for fire safety by a fire inspector before use ~~and annually thereafter~~. A third floor shall not be used for child care.

(e) (f) Refrigerator. A refrigerator shall be available for the storage of perishable foods. Refrigerated medications shall be in a locked box.



ATTORNEY GENERAL

DEPT. OF ADMINISTRATION

FEB 16 2011

APPROVED BY

A handwritten signature in black ink, appearing to be "W".

JAN 27 2011

APPROVED

~~(f) If children under one year are enrolled in homes using private well water, commercially bottled drinking water shall be purchased and used until a laboratory test confirms the nitrate content of the private well water is not more than 45 milligrams per liter as nitrate (NO₃).~~

(g) Storage of hazardous items. The following hazardous items shall be safely stored as follows:

(1) All household cleaning supplies and all bodily care products with bearing warning labels to keep out of reach of children or ~~which contain~~ containing alcohol shall be in locked storage or stored out of reach of children under six years of age. Soap used for hand washing may be kept unlocked and placed on the back of the counter by a bathroom or kitchen sink.

(2) Dangerous chemicals, household supplies with warning labels to keep out of reach of children, and all medications shall be in locked storage or stored out of the reach of children under 10 years of age.

(3) Sharp instruments shall be stored in drawers equipped with ~~child proof~~ childproof devices to prevent access by children or stored out of reach of children.

(4) Cigarettes, ashtrays, cigarette lighters, and matches shall be stored out of reach of children.

(h) Storage of guns and other weapons. No child in care shall have access to guns and any other weapons. All guns and other ~~dangerous~~ weapons shall be stored in a locked storage room, closet, container, or cabinet. ~~Guns may be equipped with trigger locks in lieu of being in locked storage.~~ Ammunition shall be kept in locked storage separate from the guns and other weapons.

RECEIVED
FEB 25 2011
SECRETARY OF STATE

ATTORNEY GENERAL

FEB 16 2011

APPROVED BY



DEPT. OF ADMINISTRATION

FEB 15 2011

APPROVED

Proposed

K.A.R. 28-4-115, page 5

(i) Outdoor play area. The designated area for outdoor play and large motor activities on the premises shall meet all of the following requirements:

(1) Outdoor play equipment which is safely constructed and in good repair shall be available, and placed in an area which is free from hazards which might be dangerous to the life and health of the children. The outdoor play area shall be fenced if the play area adjoins that of another child care facility, as defined in K.S.A. 65-503 and amendments thereto, or if the area surrounding, or the conditions existing outside, the play area present hazards that could be dangerous to the safety of the children, which may include any of the following:

(A) A fish pond or a decorative pool containing water;

(B) a busy street;

(C) railroad tracks; or

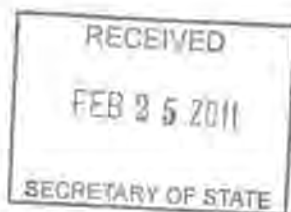
(D) a water hazard, including a ditch, a pond, a lake, and any standing water.

(2) Outdoor play equipment that is safely constructed and in good repair shall be available and placed in an area free of health, safety, and environmental hazards.

(3) The use of a trampoline shall be prohibited during the hours of operation of the facility. If a trampoline is on the premises, the trampoline shall be made inaccessible to children during the hours of operation.

(2) (4) Climbing equipment and swings shall be either anchored in the ground with metal straps or pins; or set in cement, to prevent movement of the equipment and swings.

(3) (5) Surfaces used under anchored play equipment shall be approved by the Kansas department of health and environment license surveyor prior to installation. Asphalt, cement, or



DEPT. OF ADMINISTRATION
ATTORNEY GENERAL

FEB 16 2011

APPROVED BY

A handwritten signature in black ink, appearing to be "W".

JAN 31 2011

APPROVED

Proposed

K.A.R. 28-4-115, page 6

coarse gravel shall not be used. All surfaces under and around climbing equipment and swings shall meet the following requirements:

(A) Impact-absorbent surfacing material shall be installed in each use zone under and around anchored equipment over four feet in height, including climbing equipment, slides, and swings.

(B) Impact-absorbent surfacing material shall consist of material intended for playground use, including shredded bark mulch, wood chips, fine sand, fine gravel, shredded rubber, unitary surfacing material, or synthetic impact material.

(C) Hard-surfacing materials, including asphalt, concrete, and hard-packed dirt, shall not be used in any use zone. This requirement shall apply regardless of the height of the climbing equipment, slides, and swings.

(D) Surfaces made of loose material shall be maintained by replacing, leveling, or raking the material.

~~(4) (6) Swings shall be safely located and shall not have wooden or metal seats.~~

~~(5) (7) Teeter-totters and merry-go-rounds designed for school-age children shall not be used by children under kindergarten five years of age.~~

~~(6) The outdoor play area shall be fenced if the area surrounding, or the conditions existing outside, the play area present hazards which might be dangerous to the safety of the children or if the play area adjoins that of another child care facility.~~

(j) Each facility licensed on and after July 1, 2011 shall have a designated area for outdoor play and large motor activities as part of the licensed premises. (Authorized by and



ATTORNEY GENERAL

DEPT. OF ADMINISTRATION

FEB 16 2011

JAN 31 2011

APPROVED BY

A handwritten signature in black ink, appearing to be "M".

APPROVED

Proposed

K.A.R. 28-4-115, page 7

implementing K.S.A. 2010 Supp. 65-508; effective, E-80-18, Oct. 17, 1979; effective May 1, 1980; amended May 1, 1981; amended May 1, 1983; amended May 1, 1984; amended May 1, 1986; amended May 1, 1987; amended Feb. 26, 1990; amended

P-_____.)

RECEIVED
FEB 25 2011
SECRETARY OF STATE

ATTORNEY GENERAL

DEPT. OF ADMINISTRATION

FEB 16 2011

JAN 31 2011

APPROVED BY *[Signature]*

APPROVED

Proposed

K.A.R. 28-4-115a. Supervision. (a) Supervision plan.

(1) Each applicant with a temporary permit and each licensee shall develop a supervision plan for children in care that includes all age ranges of children for whom care will be provided. A copy of the plan shall be available for review by the parents or legal guardians of children in care and by the department. The plan shall include the following:

(A) A description of the rooms, levels, or areas of the facility including indoor and outdoor areas in which the child will participate in activities, have snacks or meals, nap, or sleep;

(B) the manner in which supervision will be provided; and

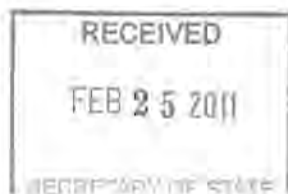
(C) any arrangements for the provision of evening or overnight care.

(2) Each applicant with a temporary permit and each licensee shall update the supervision plan when changes are made in any of the requirements of paragraph (a)(1).

(3) Based on the needs or behaviors of any child in care, any applicant with a temporary permit and any licensee may develop with the parent or legal guardian an individualized supervision plan to provide for the specific needs of the child.

(4) Each applicant with a temporary permit and each licensee shall ensure that the supervision plan is discussed with the parent or legal guardian of each child before the first day of care. Each applicant with a temporary permit and each licensee shall ensure that any updates to the supervision plan are discussed with the parent or legal guardian of each child in care and that any changes in any individualized supervision plan for a specific child are discussed with the parent or legal guardian of that child.

(5) Each applicant with a temporary permit and each licensee shall document all discussions with parents or legal guardians about the supervision plan and the documentation



ATTORNEY GENERAL

FEB 16 2011

APPROVED BY *aw*

DEPT. OF ADMINISTRATION

JAN 31 2011

APPROVED

shall be kept in each child's file.

(6) Each provider shall follow the supervision plan and any individualized supervision plan for any specific child in care.

(b) General supervision requirements. Each applicant with a temporary permit and each licensee shall ensure that supervision is provided as necessary to protect the health, safety, and well-being of each child in care.

(1) Each child in care shall be under the supervision of a provider who is responsible for the child's health, safety, and well-being.

(2) Each provider shall be aware at all times of the location of each child in that provider's care and the activities in which the child is engaged. Each provider shall perform the following:

(A) Interact with the child and attend to the child's needs;

(B) respond immediately if the child is crying or in distress in order to determine the cause and to provide comfort and assistance;

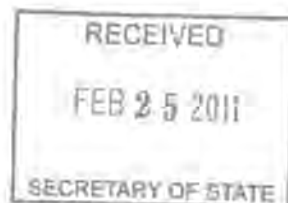
(C) investigate immediately any change in the activity or noise level of the child; and

(D) respond immediately to any emergency that could impact the health, safety, and well-being of the child.

(3) No provider shall engage in business, social, or personal activities that interfere with the care and supervision of children.

(4) Electronic monitoring devices, including infant monitors, shall not replace any of the supervision requirements of this regulation.

(c) Indoor supervision requirements. When any child is indoors, each provider shall



ATTORNEY GENERAL DEPT. OF ADMINISTRATION

FEB 16 2011

APPROVED BY

A handwritten signature in black ink, appearing to be "WJ".

JAN 31 2011

APPROVED

ensure that all of the following requirements are met, in addition to the requirements of subsection (b):

(1) For each child who is under two years of age and who is awake, the provider shall be within sight of and in proximity to the child, watching and overseeing the activities of the child. When the provider is attending to personal hygiene needs or engaging in other child care duties and is temporarily unable to remain within sight of the child, the provider shall meet all of the following conditions:

- (A) The provider has first ensured the safety of each child.
- (B) The provider is able to respond immediately to any child in distress.
- (C) The provider remains within hearing distance of each child.

(2) For each child two years of age and older who is awake, the provider may permit the child to go unattended to another room within the facility to engage in activities if all of the following conditions are met:

(A) The provider determines, based on observations of the child's behavior and information from the parent or legal guardian, that the child can go unattended to another room within the facility.

- (B) The door to each room remains open.
- (C) The provider remains within hearing distance of the child.

(D) The provider visually checks on the child and responds as necessary to meet the needs of the child.

(E) If the child is at least two years of age but under five years of age, the provider shall



ATTORNEY GENERAL

FEB 16 2011

APPROVED BY

A handwritten signature in black ink, appearing to be "CW".

DEPT. OF ADMINISTRATION

JAN 27 2011

APPROVED

remain on the same level of the facility as that of the child.

(3) Each applicant with a temporary permit and each licensee shall ensure that supervision is provided for each child who is napping or sleeping.

(A) Each child who is napping or sleeping shall be within sight or hearing distance of the provider and shall be visually checked on by the provider at least once every 15 minutes.

(B) The provider shall meet all of the requirements of K.A.R. 28-4-116a for any child who is under 12 months of age and is napping or sleeping.

(C) When any child is napping or sleeping in a room separate from the provider, the door to that room shall remain open.

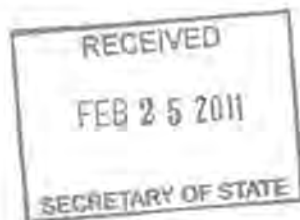
(D) When a child awakens and is ready to get up, the provider shall attend to the child's needs and assist the child in moving to another activity.

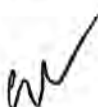
(d) Outdoor supervision requirements. When any child is outdoors, each provider shall ensure that all of the following requirements are met, in addition to the requirements of subsection (b):

(1) For each child under five years of age, the provider shall be outdoors at all times and remain within sight of and in proximity to each child, watching and directing the activities of the child.

(2) For each child five years of age and older, the provider may permit the child to go unattended to the facility's designated outdoor play area on the premises if all of the following conditions are met:

(A) The designated play area on the premises is enclosed with a fence.



DEPT. OF ADMINISTRATION
ATTORNEY GENERAL
FEB 16 2011
APPROVED BY 
JAN 31 2011
APPROVED

Proposed

K.A.R. 28-4-115a, page 5

(B) The provider determines that the area is free of any potential hazards to the health and safety of the child.

(C) The provider determines, based on observations of the child's behavior and information from the parent or legal guardian, that the child can go unattended to the outdoor play area.

(D) The provider remains within hearing distance of the child.

(E) The provider visually checks on the child and responds as necessary to meet the needs of the child.

(3) When a provider is outside with a child, the provider shall not engage in activities that could distract the provider or create a potential hazard for the child.

(e) Evening care and overnight care.

(1) Each applicant with a temporary permit and each licensee who provide evening care or overnight care as part of the regular child care services shall ensure that the following requirements are met:

(A) All requirements of subsections (a) through (d) shall be met.

(B) When overnight care is provided in a day care home, at least one provider shall remain awake at all times.

(C) When overnight care is provided in a group day care home, a second provider shall remain awake at all times if the number of children who are awake exceeds the requirements of K.A.R. 28-4-114 (e), table I.

(2) Each applicant with a temporary permit and each licensee who provide evening care



ATTORNEY GENERAL DEPT. OF ADMINISTRATION

FEB 16 2011

JAN 31 2011

APPROVED BY

A handwritten signature in black ink, appearing to be "M".

APPROVED

Proposed

K.A.R. 28-4-115a, page 6

or overnight care that is not part of the regular child care services shall ensure that the care does not exceed seven evenings or nights in a calendar year. Evening care and overnight care shall meet the following requirements:

(A) All requirements of subsection (b) shall be met.

(B) Care shall be provided for the children of only one sibling group at any one time.

(C) The applicant with a temporary permit or the licensee shall discuss the following in advance with the parent or legal guardian of each child:

(i) An indication of whether or not the provider who will be caring for the children will remain awake when children are in care; and

(ii) the frequency at which the provider who will be caring for the children will check on children who are sleeping.

(D) If the provider who will be caring for the children plans to go to sleep after all the children are asleep, the provider shall not be required to check every 15 minutes on children who are sleeping. At least one provider shall remain in proximity to the children, remain on the same level as the children, and be within hearing distance of the children in care at all times.

(Authorized by and implementing K.S.A. 2010 Supp. 65-508; effective P-_____.)



ATTORNEY GENERAL

DEPT. OF ADMINISTRATION

FEB 16 2011

JAN 31 2011

APPROVED BY

A handwritten signature in black ink, appearing to be "M".

APPROVED

Proposed

K.A.R. 28-4-116. ~~The children in care~~ Daily care of children. (a) Communication with parents and legal guardians.

(1) Each applicant with a temporary permit and each licensee shall inform the parent or legal guardian of each child in care of the policies of the facility, including the policies for exclusion of children who are ill and the schedule for daily activities.

(2) Each provider shall communicate with the parent or legal guardian of each child regarding the child's daily activities. The parent or legal guardian shall be informed of any changes in the schedule or the providers.

(b) Daily activities. ~~The provider shall offer each child the opportunity to participate daily in activities which promote healthy growth and development.~~

(1) Each applicant with a temporary permit and each licensee shall develop and implement a schedule for daily activities that promotes healthy growth and development and considers the cultural heritage of the children. The schedule shall include both indoor and outdoor activities that are appropriate for the ages and developmental levels of the children in care.

(2) The daily activities shall promote the following:

(A) Physical health and development;

(B) social and emotional development;

(C) cognitive development; and

(D) communication and literacy.

(3) Each child shall be offered a choice of daily activities and the opportunity to participate. Age-appropriate toys, and play equipment of safe construction and in good repair, books, and other learning materials shall be available in sufficient quantities to allow each child



ATTORNEY GENERAL

FEB 16 2011

APPROVED BY

A handwritten signature in black ink, appearing to be "W".

DEPT. OF ADMINISTRATION

JAN 31 2011

APPROVED

a choice of activities.

(4) The activities, supplies, and equipment shall be designed to promote the following:

(A) Large motor and small motor development, which may include running, climbing, jumping, grasping objects, drawing, buttoning, and tying;

(B) creative expression, which may include dramatic play, music, and art;

(C) math and science skills, which may include sorting, matching, counting, and measuring; and

(D) language development and literacy, which may include singing, finger plays, writing, and stories.

(5) All children shall have age-appropriate opportunities for reading and other literacy activities daily. Children who are under six years of age shall have the opportunity to be read to daily.

(6) Each child shall be given the opportunity for at least one hour of physical activity daily, either outdoors as described in paragraph (a)(9) or indoors.

(2) (7) Television programs or videos watched by children shall be age appropriate. R- and x-rated videos shall be prohibited. Each applicant with a temporary permit and each licensee shall ensure that the following requirements are met if the daily activities include the use of electronic devices and computers or any media viewing:

(A) All use of electronic devices and computers and all media viewing shall be included in the schedule of daily activities.

(B) The use of electronic devices or computers by each child shall be limited to not more



ATTORNEY GENERAL

FEB 16 2011

APPROVED BY

A handwritten signature in black ink, appearing to be a stylized 'W' or similar initials.

DEPT. OF ADMINISTRATION

JAN 31 2011

APPROVED

than 30 minutes in a day and not more than two times in a week, unless used by a child to complete assigned schoolwork.

(C) Media viewing by each child shall be limited to not more than three hours each week.

(D) No child shall be required to participate in media viewing. Each child not engaged in media viewing shall be offered a choice of at least one other activity for that time period.

(E) The parent or legal guardian of each child in care shall be informed of the use of electronic devices or computers or any media viewing.

(F) Programs or materials that are sexually explicit or violent shall be prohibited.

(G) All programs and materials shall be age-appropriate and shall have ratings appropriate for the ages and developmental levels of the children who view the programs and use the materials.

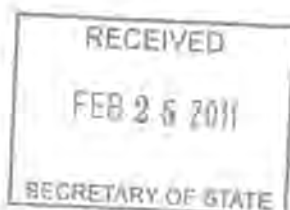
~~(3) (8) Toys, and play equipment, and other items used by children under 18 months of age shall be washed and sanitized daily~~ meet the following requirements:

(A) Be clean, of safe construction, and in good repair:

(B) be washed and sanitized daily when used by children under 18 months of age; and

(C) be washed and sanitized before being used by another child, if contaminated by saliva or other bodily fluids.

~~(4)(A) (9) Unless prohibited by the child's medical condition or extreme weather conditions, each child in care shall be taken outdoors daily. Each child 18 12 months of age or older shall have the opportunity for at least one hour of outdoor play daily and each child under 18 months shall be taken outdoors daily unless prohibited by the child's medical condition~~



ATTORNEY GENERAL

FEB 16 2011

APPROVED BY

A handwritten signature in black ink, appearing to be "W".

DEPT. OF ADMINISTRATION

JAN 31 2011

APPROVED

Proposed

or extreme weather conditions.

~~(B) Children three years of age or older who are playing outdoors shall be under the supervision of an adult who is within hearing distance at all times.~~

~~(C) Children under three years of age who are playing outdoors shall be attended by a person fourteen years of age or over. The adult responsible for the children shall be within hearing distance at all times.~~

~~(b) Napping and sleeping.~~

~~(1) Each child shall have a daily, supervised rest period as needed. Each child who does not sleep shall be given the opportunity for quiet play.~~

~~(2) Napping facilities or sleeping facilities for evening and overnight care shall be provided as follows:~~

~~(A) A crib or playpen with slats not more than 2 3/8 inches apart or equipped with bumpers shall be used for each child under 18 months.~~

~~(B) A family bed, cot, sofa, lower bunk or a pad over the carpet shall be used for each child 18 months or older. Each pad shall be at least one half inch thick, washable or enclosed in a washable cover, and shall be long enough so that the child's head and feet do not rest on the carpet. Two children may sleep on a double bed.~~

~~(C) Individual bedding shall be available for each child and shall be kept clean.~~

~~(3) Cribs, cots, or pads, when in use, shall be separated by at least 24 inches in all directions except when bordering on the wall. When not in use, they shall be stored in a clean and sanitary manner.~~



ATTORNEY GENERAL

FEB 16 2011

APPROVED BY

A handwritten signature in black ink, appearing to be "CW".

DEPT. OF ADMINISTRATION

JAN 31 2011

APPROVED

(c) Self-help and personal care. Each provider shall ensure that each child is assisted as needed with hand washing, toileting, dressing, and other personal care.

(d) Hand washing.

(1) Each provider shall wash that provider's hands when each of the following occurs:

(A) At the start of the hours of operation or when first arriving at the facility;

(B) returning from being outdoors;

(C) after toileting;

(D) after diapering, assisting a child with toileting, or handling any bodily fluids;

(E) before preparing each snack and each meal;

(F) before and after eating each snack and each meal;

(G) before and after administering any medication;

(H) after feeding or handling any pet; and

(I) as needed when hands are soiled.

(2) Each child shall wash that child's hands or be assisted in washing that child's hands when each of the following occurs:

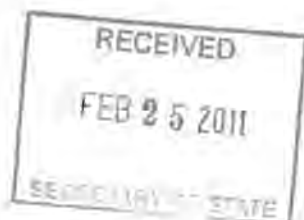
(A) First arriving at the facility;

(B) returning from being outdoors;

(C) after toileting;

(D) before and after eating each snack and each meal;

(E) after feeding or handling any pet; and



ATTORNEY GENERAL

FEB 16 2011

APPROVED BY

A handwritten signature in black ink, appearing to be "CW".

DEPT. OF ADMINISTRATION

JAN 31 2011

APPROVED

(F) as needed when hands are soiled.

(e) Smoking prohibited. No person provider shall smoke while providing direct physical care to children. Smoking in any room, enclosed area, or other enclosed space on the premises shall be prohibited when children are in care pursuant to K.S.A. 65-530, and amendments thereto.

(d) (f) Nutrition and food service. Each applicant with a temporary permit and each licensee shall develop and implement menu plans for meals and snacks that contain a variety of healthful foods, including fresh fruits, fresh vegetables, whole grains, lean meats, and low-fat dairy products. The plans shall limit highly processed foods and foods and beverages that are of low nutritional value.

(1) If children under 18 months of age are in care, the following ~~regulations~~ requirements shall be met:

(A) Infants Each child shall be held when bottle-fed until they the child can hold their the child's own bottles bottle.

(B) Infants and toddlers No child shall not be allowed to sleep with bottles in their mouths a bottle in the mouth.

(C) Each bottle that contains prepared formula and juice or breast milk shall be refrigerated until used. Leftover formula and juice shall be labeled and refrigerated stored in the refrigerator with the nipple covered; . The bottle shall be labeled with the child's name, the contents, and the date received and shall be used within 24 hours of the date on the label.

(D) If a child does not finish a bottle, the contents of the bottle shall be discarded.



DEPT. OF ADMINISTRATION
ATTORNEY GENERAL
FEB 16 2011
APPROVED BY *[Signature]* APPROVED
JAN 31 2011

(E) No formula or breast milk shall be heated in a microwave oven.

(F) Solid foods shall be offered in consultation with the child's parents when the provider and the parent or legal guardian of the child determine that the child is ready for solid foods. Opened containers of solid foods shall be labeled with the child's name, the contents, and the date opened. Containers shall be covered and refrigerated stored in the refrigerator.

(2) Each day care home or group day care home provider applicant with a temporary permit and each licensee shall serve nutritious meals and snacks as follows: based on the amount of time a child is in care.

Length of Time at Facility	Food Served
2 1/2 to 4 hours	1 snack
4 to 8 hours	1 snack & 1 meal
8 to 10 hours	2 snacks & 1 meal or 1 snack & 2 meals
10 hours or more	2 meals & 2 or 3 snacks

(A) Each child who is in care at least 2 1/2 hours but under four hours shall be served at least one snack.

(B) Each child who is in care at least four hours but under eight hours shall be served at least one snack and at least one meal.

(C) Each child who is in care at least eight hours but under 10 hours shall be served at least two snacks and one meal or at least one snack and two meals.

(D) Each child who is in care for 10 or more hours shall be served at least two meals and at least two snacks.

RECEIVED
 FEB 25 2011
 SECRETARY OF STATE

ATTORNEY GENERAL

FEB 16 2011

APPROVED BY



DEPT. OF ADMINISTRATION

JAN 31 2011

APPROVED

(e) (3) Each applicant with a temporary permit and each licensee shall include the following items in meals and snacks:

(1) (A) Breakfast shall include the following:

(A) (i) A fruit, vegetable, full-strength fruit juice, or full-strength vegetable juice;

(B) (ii) bread, ~~a bread~~ or grain product ~~or cereal~~; and

(C) (iii) milk.

(2) (B) Noon and evening meals shall include one item from each of the following:

(A) (i) Meat, ~~poultry, fish, egg, cheese, cooked dried peas or beans, or peanut butter~~ or a meat alternative;

(B) (ii) two vegetables or two fruits, or one vegetable and one fruit;

(C) (iii) bread, ~~bread produce~~ or cereal a grain product; and

(D) (iv) milk.

(3) (C) ~~Mid-morning~~ Midmorning and ~~mid-afternoon~~ midafternoon snacks shall include at least two of the following:

(A) (i) Milk, ~~milk product or food made with milk~~ full-strength fruit juice, or full-strength vegetable juice;

(B) (ii) fruit, ~~or vegetable, full-strength fruit juice or full-strength vegetable juice~~;

(C) (iii) meat or a meat ~~alternate~~ alternative; or

(D) (iv) bread, ~~bread~~ or grain product ~~or cereal~~.

(4) A sufficient quantity of food shall be prepared for each meal to allow ~~the children~~ each child to have a second portions portion of bread, milk, and either vegetables or fruit, bread, and milk fruits.



ATTORNEY GENERAL

FEB 16 2011

Approved CW

DEPT. OF ADMINISTRATION

JAN 31 2011

APPROVED

~~(g) Food allergies or special dietary needs of specific children shall be considered.~~

(5) Drinking water shall be available to each child at all times when the child is in care.

~~(h) (6) Only pasteurized milk products shall be served.~~

(7) Sugar-sweetened drinks and carbonated drinks shall not be served.

(8) Each child who is at least two years of age shall be served low-fat milk, unless a medical reason is documented in writing by a licensed physician.

(9) If a fruit juice or a vegetable juice is served, the juice shall be pasteurized and full-strength.

(10) If any child has a food allergy or special dietary need, the provider and the parent or legal guardian of the child shall make arrangements for the provision of alternative foods or beverages.

(11) Meals and snacks shall be served to each child using individual tableware that is appropriate for the food or beverage being served. Food shall be served on tableware appropriate for that food and shall not be served directly on a bare surface, including a tabletop.

~~(i) (12) Dishes~~ Tableware shall be washed, rinsed, and stacked air-dried or placed in a dishwasher after meals each meal.

~~(j) (13) Sanitary methods of food handling and storage shall be followed.~~

~~(k) (14) A~~ A washable or disposable individual cup, towel, and washcloth or disposable products shall be provided for each child.

~~(l) Each child and each adult shall wash his or her hands with soap and water before and after eating and after using the bathroom.~~



ATTORNEY GENERAL

FEB 16 2011

APPROVED BY

DEPT. OF ADMINISTRATION

JAN 27 2011

APPROVED

~~(m)~~ (g) Recordkeeping. Each applicant with a temporary permit and each licensee shall ensure that a file ~~shall be~~ is maintained for each child, including each child enrolled for emergency care, ~~which includes.~~ Each file shall include the following information:

(1) The full name, home and business addresses, and ~~home and business phone~~ telephone numbers of each the child's parent or parents or legal guardian; and the name, address, and telephone number of the ~~person~~ individual to notify in case of emergency;

(2) the full name and telephone number of each ~~person~~ individual authorized to pick up the child; and to provide transportation to and from the ~~day care home or group day care home~~ facility;

(3) a medical record as required by K.A.R. 28-4-117(a), except that ~~children~~ each child enrolled for emergency care shall be exempt from K.A.R. 28-4-117 ~~(a)(1)(B)~~ (a)(2); and

(4) written ~~parental~~ permission from the parent or legal guardian for emergency medical care and for ~~children~~ the child to go off the premises as required by K.A.R. 28-4-124 and K.A.R. 28-4-127(b)(1)(A). (Authorized by K.S.A. 2010 Supp. 65-508; implementing K.S.A. 65-507; and K.S.A. 2010 Supp. 65-508; effective, E-80-18, Oct. 17, 1979; effective May 1, 1980; amended May 1, 1981; amended May 1, 1983; amended May 1, 1985; amended May 1, 1987; amended Feb. 26, 1990; amended P-_____.)



ATTORNEY GENERAL

FEB 16 2011

APPROVED BY

DEPT. OF ADMINISTRATION

JAN 31 2011

APPROVED

28-4-116a. Napping and sleeping. (a) Rest period. Each child shall have a daily, supervised rest period as needed. Each child who does not nap or sleep shall be given the opportunity for quiet play.

(b) Safe sleep practices for children in care.

(1) Each applicant with a temporary permit and each licensee shall develop and implement safe sleep practices for children in care who are napping or sleeping.

(2) Each applicant with a temporary permit and each licensee shall ensure that the safe sleep practices are discussed with the parent or legal guardian of each child before the first day of care.

(3) Each provider shall follow the safe sleep practices of the facility.

(4) Each child who is 12 months of age or older shall nap or sleep on a bed, a cot, the lower bunk of a bunk bed, or a pad over a carpet or area rug on the floor.

(5) Each applicant with a temporary permit and each licensee shall ensure that all of the following requirements are met for each child in care who is under 12 months of age.

(A) The child shall nap or sleep in a crib or a playpen. Stacking cribs or bassinets shall not be used. Cribs with water-bed mattresses shall not be used.

(B) If the child falls asleep on a surface other than a crib or playpen, the child shall be moved to a crib or playpen.

(C) The child shall not nap or sleep in the same crib or playpen as that occupied by another child at the same time.

(D) The child shall be placed on the child's back to nap or sleep.

(E) When the child is able to turn over independently, the child shall be placed on the



ATTORNEY GENERAL

FEB 16 2011

APPROVED BY

A handwritten signature in black ink, appearing to be "CW".

DEPT. OF ADMINISTRATION

JAN 31 2011

APPROVED

child's back but then shall be allowed to remain in a position preferred by the child. Wedges or infant positioners shall not be used.

(F) The child shall be visually checked and physically touched at least every 15 minutes to ensure the child's well-being.

(G) The child shall sleep in a crib or a playpen that is free of any soft items, which may include pillows, quilts, heavy blankets, bumpers, and toys.

(H) If a lightweight blanket is used, the blanket shall be tucked along the sides and foot of the mattress. The blanket shall not be placed higher than the child's chest. The head of the child shall remain uncovered. The child may nap or sleep in sleep clothing, including sleepers and sleep sacks, in place of a lightweight blanket.

(c) Napping or sleeping surfaces. Each applicant with a temporary permit and each licensee shall ensure that the following requirements are met for all napping or sleeping surfaces:

(1) Clean, individual bedding shall be provided for each child.

(2) Each surface used for napping or sleeping shall be kept clean, of safe construction, and maintained in good repair.

(3) Each crib and each playpen shall be used only for children who meet the manufacturer's recommendations for use, including any age, height, or weight limitations. The manufacturer's instructions for use, including any recommendations for use, shall be kept on file at the facility.

(4) Each crib and each playpen shall have a firm, tightfitting mattress and a fitted sheet. The mattress shall be set at its lowest point when any child using the crib or playpen becomes



ATTORNEY GENERAL

FEB 16 2011

APPROVED BY

A handwritten signature in black ink, appearing to be "CW".

DEPT. OF ADMINISTRATION

JAN 31 2011

APPROVED

Proposed

K.A.R. 28-4-116a, page 3

able either to sit up or to pull up to a standing position inside the crib or playpen, whichever occurs first, to ensure that the child cannot climb out of the crib or playpen.

(5) If a crib or playpen is slatted, the slats shall be spaced not more than 2 3/8 inches apart.

(6) No crib or playpen shall be used with the drop side down. Drop-side latches shall securely hold all sides in the raised position.

(7) For each drop-side crib or playpen, the drop-side assembly shall be maintained in working order.

(8) The use of drop-side cribs shall be prohibited on and after December 28, 2012.

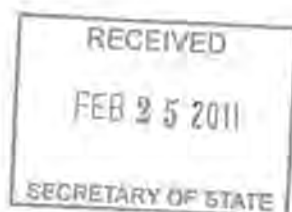
(9) Each pad used for napping or sleeping shall be at least 1/2 inch thick, washable or enclosed in a washable cover, and long enough so that the child's head and feet rest on the pad. Clean, individual bedding, including a bottom and a top cover, shall be provided for each child.

(10) Cribs, cots, playpens, and pads, when in use for napping or sleeping, shall be separated by at least 24 inches in all directions except when bordering on the wall.

(11) When not in use, cribs, cots, playpens, pads, and bedding shall be stored in a clean and sanitary manner.

(d) Consumer warning or recall. Each applicant with a temporary permit and each licensee shall make any necessary changes to follow the recommendations of any consumer warning or recall of a crib or a playpen as soon as the warning or recall is known.

(e) Transition from crib or playpen. The determination of when a child who is 12 months of age or older is ready to transition from a crib or a playpen to another napping or sleeping



ATTORNEY GENERAL

FEB 16 2011

APPROVED BY

A handwritten signature in black ink, appearing to be "W".

DEPT. OF ADMINISTRATION

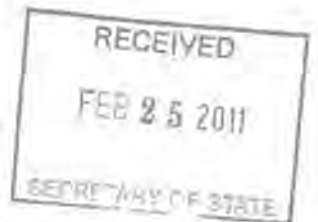
JAN 31 2011

APPROVED

Proposed

K.A.R. 28-4-116a, page 4

surface shall be made by the parent or guardian of the child and by either the applicant with a temporary permit or the licensee. The requirements of paragraphs (c)(3) and (4) for a child using a crib or playpen shall apply. (Authorized by and implementing K.S.A. 2010 Supp. 65-508; effective P-_____.)



ATTORNEY GENERAL

FEB 16 2011

APPROVED BY

DEPT. OF ADMINISTRATION

JAN 31 2011

APPROVED

Proposed

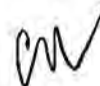
K.A.R. 28-4-120. This regulation shall be revoked on and after July 1, 2011. (Authorized by K.S.A. 65-522; implementing K.S.A. 65-519 and 65-521; effective May 1, 1981; amended May 1, 1986; amended Feb. 26, 1990; amended July 11, 2008; revoked P-_____.)

RECEIVED
FEB 25 2011
SECRETARY OF STATE

ATTORNEY GENERAL

FEB 16 2011

APPROVED BY



DEPT. OF ADMINISTRATION

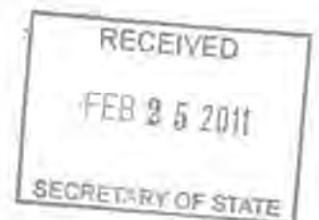
JAN 27 2011

APPROVED .

Proposed

K.A.R. 28-4-121. This regulation shall be revoked on and after July 1, 2011. (Authorized by
K.S.A. 65-522; implementing K.S.A. 65-519; effective July 11, 2008; revoked

P-_____.)



ATTORNEY GENERAL

FEB 16 2011

APPROVED BY

A handwritten signature in black ink, appearing to be the initials "RW".

DEPT. OF ADMINISTRATION

JAN 27 2011

APPROVED

Proposed

K.A.R. 28-4-428a. Education and training requirements. (a) Orientation.

(1) Each person shall, before applying for a license, complete an orientation program on the requirements for operating a preschool or a child care center. If the person is not an individual, the person shall designate an individual to meet this requirement. The orientation shall be provided by the county health department or the secretary's designee that serves the county in which the preschool or child care center will be located.

(2) Each licensee shall provide orientation to each program director not later than seven calendar days after the date of employment and before the program director is given sole responsibility for implementing and supervising the program.

(3) Each licensee shall ensure that orientation is completed by each staff member who will be counted in the staff-child ratio and by each volunteer who will be counted in the staff-child ratio. Each staff member and volunteer shall complete the orientation within seven calendar days after the date of employment or volunteering and before the staff member or volunteer is given sole responsibility for the care and supervision of children.

(4) Each licensee shall ensure that the orientation for each program director, staff member, and volunteer is related to work duties and responsibilities and includes the following:

(A) Licensing regulations;

(B) the policies and practices of the preschool or child care center, including emergency procedures, behavior management, and discipline;

(C) the schedule of daily activities;

(D) care and supervision of children in care;

(E) health and safety practices; and

RECEIVED
FEB 25 2011
SECRETARY OF STATE

ATTORNEY GENERAL

FEB 16 2011

APPROVED BY *[Signature]*

DEPT. OF ADMINISTRATION

FEB 15 2011

APPROVED

(F) confidentiality.

(b) Health and safety training.

(1) Each staff member who is counted in the staff-child ratio, each volunteer who is counted in the staff-child ratio, and each program director shall complete health and safety training either before employment or volunteering or not later than 30 calendar days after the date of employment or volunteering.

(2) The training shall be approved by the secretary and shall include the following:

(A) At least two clock-hours of training in recognizing the signs of child abuse or neglect, including shaken baby syndrome, and the reporting of suspected child abuse and neglect;

(B) at least two clock-hours of training in basic child development; and

(C) at least two clock-hours of training on safe sleep practices and sudden infant death syndrome if the individual will be caring for children under 12 months of age.

(3) Each individual who is required to complete this training and who was employed in the preschool or child care center before the effective date of this regulation shall complete the training within one calendar year after the effective date of this regulation.

(c) Pediatric first aid and cardiopulmonary resuscitation (CPR) certifications.

(1) Each staff member counted in the staff-child ratio, each volunteer counted in the staff-child ratio, and each program director shall obtain certification in pediatric first aid and in pediatric CPR as specified in this subsection either before the date of employment or volunteering or not later than 30 calendar days after the date of employment or volunteering.

(2) Each individual who is required to obtain the certifications and who was employed



ATTORNEY GENERAL

FEB 16 2011

APPROVED BY

A handwritten signature in black ink, appearing to be a stylized "W" or similar initials.

DEPT. OF ADMINISTRATION

FEB 11 2011

APPROVED

in the preschool or child care center before the effective date of this regulation shall obtain the certifications within one calendar year after the effective date of this regulation.

(3) Each individual who is required to obtain the certifications shall maintain current certifications.

(4) Each licensee shall ensure that, for each unit in a preschool or child care center, at least one staff member or volunteer counted in the staff-child ratio who has current certification in pediatric first aid and current certification in pediatric CPR is in attendance at all times.

(d) Education requirements. Each program director shall be a high school graduate or equivalent. For each unit in a preschool or child care center, there shall be in attendance at all times at least one staff member who has a high school diploma or equivalent, as required in K.A.R. 28-4-429(h).

(e) Annual in-service training requirements.

(1) Each program director shall complete annual in-service training as required in K.A.R. 28-4-428(e)(1).

(2) Each staff member counted in the staff-child ratio and each volunteer counted in the staff-child ratio shall complete annual in-service training as required in K.A.R. 28-4-428(e)(2).

(f) Documentation. Each licensee shall ensure that documentation of all orientation, training, certifications, and education requirements is kept in each individual's file in the preschool or child care center. (Authorized by and implementing K.S.A. 2010 Supp. 65-508; effective P-_____.)



ATTORNEY GENERAL

FEB 16 2011

APPROVED BY

A handwritten signature in black ink, appearing to be "M".

DEPT. OF ADMINISTRATION

FEB 15 2011

APPROVED

K.A.R. 28-4-440. Infant and toddler programs. (a) Infant and toddler programs shall be conducted on the ground floor only.

(b) ~~Infant and toddler units~~ Each unit of infants and each unit of toddlers shall be separate from ~~units for~~ each unit of older children.

(c) Floor furnaces shall be prohibited.

(d) A sleeping area separate from the play area shall be provided for infants.

(e) A crib or playpen shall be provided for each infant in care at any one time. Cribs and playpens shall be maintained in good condition. Clean individual bedding shall be provided.

~~The use of stacking cribs shall be prohibited.~~

(f) Each licensee shall ensure that the following requirements are met:

(1) The use of stacking cribs, cribs with water mattresses, or bassinets shall be prohibited.

(2) Cribs and playpens shall have slats not more than 2 3/8 inches apart, or shall be equipped with bumpers.

(3) ~~The side~~ All sides of the each crib or playpen shall be up while the crib or playpen is in use.

(4) Drop-side latches shall securely hold all crib sides and playpen sides in the raised position. For each drop-side crib or playpen, the drop-side assembly shall be maintained in working order.

(5) The use of drop-side cribs shall be prohibited on and after December 28, 2012.

(g) Each licensee shall make any necessary changes to follow the recommendations of any consumer warning or recall of a crib or a playpen as soon as the warning or recall is known.



ATTORNEY GENERAL

FEB 16 2011

APPROVED BY

A handwritten signature in black ink, appearing to be "W".

DEPT. OF ADMINISTRATION

FEB 15 2011

APPROVED

(h) Each licensee shall develop and implement safe sleep policies and practices for infants and toddlers and shall ensure that the policies and practices are discussed with the parent or legal guardian of each child before the first day of care. The safe sleep policies and practices shall include the following requirements:

(1) Each staff member who cares for children and each volunteer who cares for children shall follow the safe sleep policies and practices of the child care center.

(2) Each staff member who cares for infants and each volunteer who cares for infants shall ensure that all of the following requirements are met:

(A) Each infant shall nap or sleep in a crib or a playpen.

(B) An infant shall not nap or sleep in the same crib or playpen as that occupied by another infant or child at the same time.

(C) If an infant falls asleep on a surface other than a crib or playpen, the infant shall be moved to a crib or playpen.

(D) Each infant shall be placed on the infant's back to nap or sleep.

(E) When an infant is able to turn over independently, the infant shall be placed on the infant's back but then shall be allowed to remain in a position preferred by the infant. Wedges or infant positioners shall not be used.

(F) Each infant shall be visually checked and physically touched at least every 15 minutes to ensure the infant's well-being.

(G) Each infant shall sleep in a crib or a playpen that is free of any soft items, which may include pillows, quilts, heavy blankets, bumpers, and toys.



ATTORNEY GENERAL

FEB 16 2011

APPROVED BY

A handwritten signature in black ink, appearing to be "W".

DEPT OF ADMINISTRATION

FEB 11 2011

APPROVED

Proposed

(H) If a lightweight blanket is used, the blanket shall be tucked along the sides and foot of the mattress. The blanket shall not be placed higher than the infant's chest. The head of the infant shall remain uncovered. Any infant may nap or sleep in sleep clothing, including sleepers and sleep sacks, in place of a lightweight blanket.

~~(g)~~ (i) When children are awake, they shall not be left unattended in cribs or other confinement for more than 30 minutes.

~~(h)~~ (j) An adult-size rocking chair shall be provided ~~in for~~ for each ~~infant or toddler~~ unit of ~~infants and each unit of toddlers.~~

~~(i)~~ (k) Children not held for feeding shall have low chairs and tables, infant seats with trays, or high chairs with a wide base and a safety strap.

~~(j)~~ (l) ~~Individually-labeled~~ Either individually labeled towels and washcloths or disposable products shall be provided.

~~(k)~~ (m) Items that children ~~may~~ can place in their mouths shall be washed and sanitized daily ~~with soap and water~~ and shall be washed and sanitized before being used by another child, if contaminated by saliva or other bodily fluids.

~~(l)~~ (n) ~~Staff requirements. Single or multi-unit centers serving infants and toddlers shall employ one staff person per unit who meets the training requirements under one of the following options~~ Each licensee shall ensure that at least one staff member who meets one of the following staff requirements is present for each unit of infants and each unit of toddlers:

~~(A)(1) Option 1: A person with six~~ An individual who meets the qualifications of K.A.R. 28-4-429(b) and has at least three months' teaching experience or a supervised practicum in



ATTORNEY GENERAL

FEB 16 2011

APPROVED BY

DEPT. OF ADMINISTRATION

FEB 15 2011

APPROVED

~~licensed child care centers enrolling~~ caring for infants and toddlers; or

~~(B) (2)~~ option 2: a licensed L.P.N. or R.N. with three months' experience in pediatrics; or
in licensed child care centers enrolling infants and toddlers; or

~~(C) (3)~~ option 3: a child development associate credential in ~~infant/toddler~~ infant and
toddler care.

~~(m) (o) Program.~~ Each licensee shall ensure that the following program requirements are
met:

(1) Daily activities shall contribute to the following:

- (A) Gross and fine motor development;
- (B) visual-motor coordination;
- (C) language stimulation; and
- (D) social and personal growth.

(2) Infants and toddlers shall spend time outdoors daily unless extreme weather
conditions prevail.

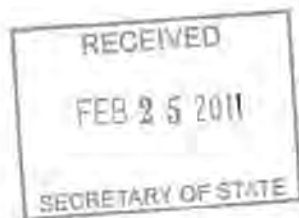
~~(n) (p) Food service.~~ Each licensee shall ensure that the following food service
requirements are met:

(1) The nitrate content of water for children under one year of age shall not exceed
45 10 milligrams per liter ~~as nitrate (NO₃)~~ (10 mg/l) as nitrogen.

(2) Drinking water shall be available to each child at all times when the child is in care.

(3) Infants shall be held when bottle-fed until they can hold their own bottles.

~~(3) (4)~~ (4) Infants and toddlers shall not be allowed to sleep with bottles in their mouths.



ATTORNEY GENERAL

FEB 16 2011

APPROVED BY

DEPT. OF ADMINISTRATION

FEB 11 2011

APPROVED

Proposed

K.A.R. 28-4-440, page 5

~~(4) (5) Each bottle that contains prepared formula and juice or breast milk shall be refrigerated until used with the nipple covered. Leftover formula and juice shall be labeled and refrigerated with the nipple covered, and shall be used within 24 hours. The bottle shall be labeled with the child's name, the contents, and the date received and shall be used within 24 hours of the date on the label. If a child does not finish a bottle, the contents of the bottle shall be discarded. No formula or breast milk shall be heated in a microwave oven.~~

~~(5) (6) Solid foods shall be offered in consultation with the child's parents when the program director and the parent or legal guardian of a child determine that the child is ready for solid foods. Opened containers of solid foods shall be labeled with child's name, the contents, and the date opened. Containers shall be covered, and refrigerated. The food shall be used within three calendar days of the date opened. Food in previously opened containers shall be reheated only once, and shall not be served to other children another child.~~

~~(e) (q) Toileting. Each licensee shall ensure that the following toileting requirements are met:~~

- ~~(1) Children's clothing shall be changed whenever wet or soiled.~~
- ~~(2) Each child shall have at least two complete changes of clothing.~~
- ~~(3) Handwashing facilities shall be in or adjacent to the diaper-changing area.~~
- ~~(4) Children shall be diapered in their own cribs or playpens, or on a changing table.~~

~~Each unit shall have A changing table shall be provided for each unit of infants and each unit of toddlers.~~

~~(5) Each changing tables table shall have an impervious, undamaged surface. Tables~~



ATTORNEY GENERAL

FEB 16 2011

APPROVED BY

DEPT. OF ADMINISTRATION

FEB 11 2011

APPROVED

A handwritten signature in black ink, appearing to be a stylized name.

Proposed

K.A.R. 28-4-440, page 6

Each table shall be sturdy, and shall be equipped with railings or safety straps.

(6) Changing tables shall be sanitized after each use by washing with a disinfectant solution of 1/4 cup of chlorine bleach to one gallon of water, or with an appropriate commercial disinfectant.

(7) Wet or soiled washable diapers or training pants shall be stored in a labeled, covered container or plastic bag, and shall be returned home with the parent.

(8) Wet or soiled disposable diapers shall be placed in a covered container or plastic bag, which shall be emptied daily.

(9) There shall be one potty chair or child-sized toilet for every five toddlers. When a potty chair is used, the following requirements shall be met:

(A) Potty chairs shall be left in the toilet room.

(B) The wastes shall be disposed of immediately in a flush toilet.

(C) The container shall be sanitized after each use and shall be washed with soap and water daily.

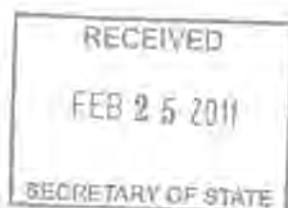
(D) Potty chairs shall not be counted as toilets.

(10) ~~Staff~~ Each individual shall wash ~~their~~ that individual's hands after diapering, assisting a child with toileting, or changing a child's wet or soiled clothing.

(11) Changing and toileting procedures shall be posted.

~~(p) Transportation. Car seats, as required in K.A.R. 28-4-425(a)(6), shall be provided when infants and toddlers are transported.~~

~~(q)~~ (r) There shall be daily communication between the parent, parents, or legal



ATTORNEY GENERAL

FEB 16 2011

APPROVED BY

DEPT. OF ADMINISTRATION

FEB 11 2011

APPROVED

A handwritten signature in black ink, appearing to be "M" or "M.", written over the "APPROVED BY" text.

Proposed


K.A.R. 28-4-440, page 7

guardian and the staff about ~~the~~ each child's behavior and development. (Authorized by and implementing K.S.A. 2010 Supp. 65-508; effective May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended May 1, 1986; amended, T-87-34, Nov. 19, 1986; amended May 1, 1987; amended P-_____.)

RECEIVED
FEB 25 2011
SECRETARY OF STATE

ATTORNEY GENERAL

FEB 16 2011

APPROVED: Y 

DEPT. OF ADMINISTRATION

FEB 11 2011

APPROVED

Date: February 17, 2011

Kansas Department of Health and Environment
Economic Impact Statement

Pursuant to the requirements of K.S.A. 2010 Supp. 77-416, Kansas Department of Health and Environment submits the following economic impact statement concerning one new general regulation for child care facilities. The proposed regulation is needed to implement provisions of Lexie's Law, K.S.A. 2010 Supp. 65-503 *et seq.* K.S.A. 2010 Supp. 65-534 requires the department to establish or cause to be established an online information dissemination system, the purpose of which is to provide information to families as they make decisions about child care.

1. Regulation(s):

Regulation to be implemented.

K.A.R. 28-4-93. Online information dissemination system.

2. Brief description of each regulation(s) and what is intended to be accomplished by adoption.

K.A.R. 28-4-93. Online information dissemination system.

The regulation provides definitions of terms and requires that an applicant, applicant with a temporary permit, or licensee notify the department if they wish to withhold the facility address and telephone number from publication.

3. Is this regulation mandated by federal law as a requirement for participating in or implementing a federally subsidized or assisted program?

Yes _____ No X

If yes, please explain.

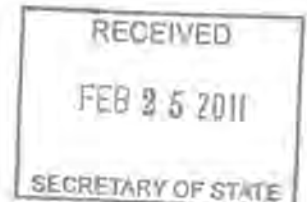
4. Do the proposed regulations exceed the requirements of applicable federal law?

Yes _____ No X

5. Description of Costs:

(a) Cost to the agency:

The proposed regulation does not create any additional cost to the agency. Any implementation costs will be absorbed in the current budget.



Date: February 17, 2011

Kansas Department of Health and Environment
Economic Impact Statement

Pursuant to the requirements of K.S.A. 2010 Supp. 77-416, Kansas Department of Health and Environment submits the following economic impact statement concerning revocation of current regulations for family day care homes and new and amended regulations for licensed day care homes and group day care homes. The proposed changes are needed to implement provisions of Lexie's Law, K.S.A. 2010 Supp. 65-503 *et seq.*

1. Regulation(s):

Current regulations to be revoked effective July 1, 2011:

- K.A.R. 28-4-120. Family day care home certificate of registration.
- K.A.R. 28-4-121. Required immunizations for children under 16 years of age.

Current regulations to be amended:

- K.A.R. 28-4-113. Definitions.
- K.A.R. 28-4-114. The applicant and licensee.
- K.A.R. 28-4-115. The home.
- K.A.R. 28-4-116. The children in care.

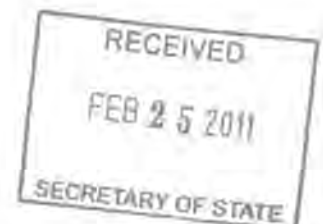
New regulations to be implemented:

- K.A.R. 28-4-114a. Initial and ongoing professional development.
- K.A.R. 28-4-115a. Supervision.
- K.A.R. 28-4-116a. Napping and sleeping.

2. Brief description of each regulation(s) and what is intended to be accomplished by adoption.

Current regulations to be revoked effective July 1, 2011:

- K.A.R. 28-4-120. Family day care home certificate of registration.
 - K.A.R. 28-4-121. Required immunizations for children under 16 years of age.
- Both regulations pertain to the "registered family day care home" category of child care. Pursuant to K.S.A.2010 Supp 65-533(d), the registration category of family day care homes will cease to exist on June 30, 2011 and the provisions of sec. 17 will expire July 1, 2011.



Current regulations to be amended:

K.A.R. 28-4-113. Definitions.

Provides specific definitions of terms used in regulations for licensed day care homes and group day care homes for children.

K.A.R. 28-4-114. The applicant and licensee.

Describes application process for license and applicant and licensee requirements; addresses operation of more than one child care facility; states that no license for any new facility will be issued unless current facility complies with regulations; lists license capacity for facilities, describes how to count a child who does is not at developmental level, and does not allow capacity to be exceeded; allows provision for emergency care; addresses additional children on the premises; gives requirements for substitute care provider; requires posting of temporary permit or license and availability of current regulations; provides procedures for closure.

K.A.R. 28-4-115. The home. Amended title: The facility.

States requirements for water and sewerage systems and drinking water for infants; addresses general environmental requirements, fire safety, basements and other floors; requires a refrigerator; addresses storage of hazardous items and storage of guns and other weapons; requires designated outdoor play area.

K.A.R. 28-4-116. The children in care. Amended title: Daily care of children.

Requires communication with parents and legal guardians; requires for daily activities; addresses self-help and personal care for children and hand washing; prohibits smoking; states requirements for nutrition and food service; requires recordkeeping for each child.

New regulations to be implemented:

K.A.R. 28-4-114a. Initial and ongoing professional development.

Requires orientation for applicants and individuals caring for children; describes health and safety training requirements; requires certification in pediatric first aid and CPR; lists initial and annual professional development requirements; requires documentation.

K.A.R. 28-4-115a. Supervision.

Requires supervision plan and specifies content; lists requirements for general supervision, indoor, outdoor and evening or overnight care.

K.A.R. 28-4-116a. Napping and sleeping.

Requires rest period for each child; lists elements of safe sleep practices; lists requirements for napping or sleeping surfaces, including consumer warning or recall of crib or playpen; addresses transition of child from crib or playpen.

The proposed regulations, in compliance with K.S.A. 28-4-Supp. 65-503 *et seq*, are intended to insure that providers engage in safe child care practices and that they meet



education and training requirements designed to enhance provision of care to all children in day care or group day care homes.

3. Are these regulations mandated by federal law as a requirement for participating in or implementing a federally subsidized or assisted program?

Yes _____ No X

If yes, please explain.

4. Do the proposed regulations exceed the requirements of applicable federal law?

Yes _____ No X

5. Description of Costs:

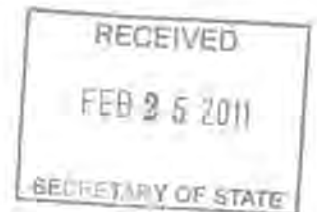
(a) Cost to the agency:

There is no additional cost to the agency. Any costs will be absorbed in the current budget.

(b) Cost to persons who will bear the costs and those who will be affected (i.e., private citizens and consumers of the products or services) and are subject to the proposed rules and regulations or the enforcement:

A number of current licensees and care providers, as part of their own professional development, already meet the requirements of the proposed new regulation on professional development, K.A.R. 28-4-114a. For those who do not currently meet the training requirements, there are a number of low-cost training opportunities available through county health departments and resource and referral agencies across the state. Furthermore, the proposed regulation allows licensees and providers licensed or employed before the effective date of this regulation up to one calendar year to complete the requirements.

K.A.R. 28-4-116a prohibits the use of drop-side cribs after December 28, 2012. This prohibition is due to a recent change in federal standards for the manufacture and sale of cribs, which include a requirement that child care facilities phase out the use of drop-side cribs by that date. The purpose of the delayed compliance date is to provide adequate time for the manufacture of complying cribs and for facilities to obtain complying cribs. In Kansas, licensed day care homes, group day care homes, and child care centers with infants enrolled may use either cribs or playpens for napping or sleeping infants. It is unknown how many facilities currently have cribs that must be replaced by December 28, 2012. For those facilities replacing non-compliant cribs, the estimated cost per crib is \$200-\$500. Child care facilities will continue to have the option to use the less expensive



playpens. Other sections of this proposed regulation address requirements for safe use of cribs and playpens.

(c) Costs to other governmental agencies or units:

There is no known additional cost.

6. Description of any less costly or less intrusive methods that were considered by the agency for the purpose of the rules and regulations and why such methods were rejected in favor of the proposed rules and regulations.

Existing efforts for making training available and providing consultation on safe child care practices have been partially successful with some providers. These proposed new and amended regulations are intended to comply with K.S.A. 2010 Supp. 65-503 *et seq.* and to ensure that all providers are required to complete orientation and training and to engage in safe child care practices.

7. Verification of economic impact statement with League of Kansas Municipalities, Kansas Association of Counties and the Kansas Association of School Boards.

The above mentioned regulation was determined as appropriate for consultation as to the economic impact with the League of Kansas Municipalities, Kansas Association of Counties and the Kansas Association of School Boards, pursuant to K.S.A. 2010 Supp. 77-416.

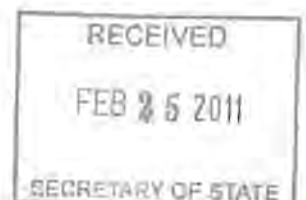
Yes X No

If yes:

Date Contacted and by what means (i.e., letter, FAX, etc.): Letters will be mailed at the time the Notice of Hearing is published in the Kansas Register.

Response and comments received by:

- League of Kansas Municipalities:
- Kansas Association of Counties:
- Kansas Association of School Boards:



Date: February 17, 2011

Kansas Department of Health and Environment
Economic Impact Statement

Pursuant to the requirements of K.S.A. 2010 Supp. 77-416, Kansas Department of Health and Environment submits the following economic impact statement concerning one amended and one new regulation for preschools and child care centers. The proposed changes are needed to implement provisions of Lexie's Law, K.S.A. 2010 Supp. 65-503 *et seq.*

1. **Regulation(s):**

Current regulation to be amended:

K.A.R. 28-4-440. Infant and toddler programs.

New regulation to be implemented:

K.A.R. 28-4-428a. Education and training requirements.

2. **Brief description of each regulation(s) and what is intended to be accomplished by adoption.**

Current regulation to be amended:

K.A.R. 28-4-440. Infant and toddler programs.

States program requirements, including use of ground floor only, separate units from those for older children; prohibits floor furnaces; for infants, requires separate sleeping area and crib or playpen for each infant; lists requirements for cribs and playpens and consumer warnings or recalls; lists elements of safe sleep policies and practices; requires attendance to children when awake; requires adult-size rocking chair for each unit and chairs, tables, etc., for children not held for feeding; requires provision of towels and washcloths or disposable products; addresses cleaning of items that children may place in their mouths; lists staff requirements; addresses program requirements; lists food service requirements; lists requirements for toileting; requires daily communication with parents and guardians.

New regulation to be implemented:

K.A.R. 28-4-428a. Education and training requirements.

Requires orientation for applicants and staff; describes health and safety training; requires pediatric first aid and CPR; requires high school graduation and annual in-service training for program director and other staff.

The proposed regulations, in compliance with K.S.A. 2010 Supp. 65-503 *et seq.*, are intended to ensure that licensees and staff member engage in safe child care practices in



infant and toddler programs and that they meet education and training requirements designed to enhance the provision of care to all children in the facility.

3. Are these regulations mandated by federal law as a requirement for participating in or implementing a federally subsidized or assisted program?

Yes _____

No X

If yes, please explain.

4. Do the proposed regulations exceed the requirements of applicable federal law?

Yes _____

No X

5. Description of Costs:

- (a) Cost to the agency:

There is no additional cost to the agency. Any costs will be absorbed in the current budget.

- (b) Cost to persons who will bear the costs and those who will be affected (i.e., private citizens and consumers of the products or services) and are subject to the proposed rules and regulations or the enforcement:

A number of current licensees, program directors, staff members, and volunteers, as part of their own professional development, already meet the requirements in the proposed amended regulation on education and training, K.A.R. 28-4-428a. For program directors, staff members, and volunteers who do not currently meet the training requirements, there are a number of no-cost or low-cost training opportunities available through county health departments and resource and referral agencies across the state. Furthermore, the proposed new regulation allows licensees and staff who were licensed or employed before the effective date of this regulation up to one calendar year to complete the requirements.

K.A.R. 28-4-440 prohibits the use of drop-side cribs facilities after December 28, 2012. This prohibition is due to a recent change in federal standards for the manufacture and sale of cribs, which include a requirement that child care facilities phase out the use of drop-side cribs by that date. The purpose of the delayed compliance date is to provide adequate time for the manufacture of complying cribs and for facilities to obtain complying cribs. In Kansas, licensed day care homes, group day care homes, and child care centers with infants enrolled may use either cribs or playpens for napping or sleeping infants. It is unknown how many facilities currently have cribs that must be replaced by

